

1-1 By: Metcalf, et al. (Senate Sponsor - Creighton) H.B. No. 634
 1-2 (In the Senate - Received from the House May 11, 2015;
 1-3 May 12, 2015, read first time and referred to Committee on Criminal
 1-4 Justice; May 21, 2015, reported favorably by the following vote:
 1-5 Yeas 6, Nays 0; May 21, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the rights of a guardian of a person in the criminal
 1-18 justice system.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Chapter 26, Code of Criminal Procedure, is
 1-21 amended by adding Article 26.041 to read as follows:

1-22 Art. 26.041. PROCEDURES RELATED TO GUARDIANSHIPS. (a) In
 1-23 this article:

1-24 (1) "Guardian" has the meaning assigned by Section
 1-25 1002.012, Estates Code.

1-26 (2) "Letters of guardianship" means a certificate
 1-27 issued under Section 1106.001(a), Estates Code.

1-28 (b) A guardian who provides a court with letters of
 1-29 guardianship for a defendant may:

1-30 (1) provide information relevant to the determination
 1-31 of indigency; and

1-32 (2) request that counsel be appointed in accordance
 1-33 with this chapter.

1-34 SECTION 2. Section 501.010, Government Code, is amended by
 1-35 amending Subsection (a) and adding Subsections (a-1) and (b-1) to
 1-36 read as follows:

1-37 (a) In this section:

1-38 (1) "Guardian" has the meaning assigned by Section
 1-39 1002.012, Estates Code.

1-40 (2) "Letters of guardianship" means a certificate
 1-41 issued under Section 1106.001(a), Estates Code.

1-42 (a-1) The institutional division shall allow the governor,
 1-43 members of the legislature, and members of the executive and
 1-44 judicial branches to enter at proper hours any part of a facility
 1-45 operated by the division where inmates are housed or worked, for the
 1-46 purpose of observing the operations of the division. A visitor
 1-47 described by this subsection may talk with inmates away from
 1-48 institutional division employees.

1-49 (b-1) The uniform visitation policy must:

1-50 (1) allow visitation by a guardian of an inmate to the
 1-51 same extent as the inmate's next of kin, including placing the
 1-52 guardian on the inmate's approved visitors list on the guardian's
 1-53 request and providing the guardian access to the inmate during a
 1-54 facility's standard visitation hours if the inmate is otherwise
 1-55 eligible to receive visitors; and

1-56 (2) require the guardian to provide the warden with
 1-57 letters of guardianship before being allowed to visit the inmate.

1-58 SECTION 3. Section 507.030, Government Code, is amended by
 1-59 amending Subsections (a) and (b) and adding Subsection (a-1) to
 1-60 read as follows:

1-61 (a) In this section:

2-1 (1) "Guardian" has the meaning assigned by Section
2-2 1002.012, Estates Code.

2-3 (2) "Letters of guardianship" means a certificate
2-4 issued under Section 1106.001(a), Estates Code.

2-5 (a-1) The state jail division shall allow the governor,
2-6 members of the legislature, and officials of the executive and
2-7 judicial branches to enter during business hours any part of a
2-8 facility operated by the division, for the purpose of observing the
2-9 operations of the division. A visitor described by this subsection
2-10 may talk with defendants away from division employees.

2-11 (b) The state jail division shall establish a visitation
2-12 policy for persons confined in state jail felony facilities. The
2-13 visitation policy must:

2-14 (1) allow visitation by a guardian of a defendant
2-15 confined in a state jail felony facility to the same extent as the
2-16 defendant's next of kin, including placing the guardian on the
2-17 defendant's approved visitors list on the guardian's request and
2-18 providing the guardian access to the defendant during a facility's
2-19 standard visitation hours if the defendant is otherwise eligible to
2-20 receive visitors; and

2-21 (2) require the guardian to provide the director of
2-22 the facility with letters of guardianship before being allowed to
2-23 visit the defendant.

2-24 SECTION 4. Section 511.009(a), Government Code, is amended
2-25 to read as follows:

2-26 (a) The commission shall:

2-27 (1) adopt reasonable rules and procedures
2-28 establishing minimum standards for the construction, equipment,
2-29 maintenance, and operation of county jails;

2-30 (2) adopt reasonable rules and procedures
2-31 establishing minimum standards for the custody, care, and treatment
2-32 of prisoners;

2-33 (3) adopt reasonable rules establishing minimum
2-34 standards for the number of jail supervisory personnel and for
2-35 programs and services to meet the needs of prisoners;

2-36 (4) adopt reasonable rules and procedures
2-37 establishing minimum requirements for programs of rehabilitation,
2-38 education, and recreation in county jails;

2-39 (5) revise, amend, or change rules and procedures if
2-40 necessary;

2-41 (6) provide to local government officials
2-42 consultation on and technical assistance for county jails;

2-43 (7) review and comment on plans for the construction
2-44 and major modification or renovation of county jails;

2-45 (8) require that the sheriff and commissioners of each
2-46 county submit to the commission, on a form prescribed by the
2-47 commission, an annual report on the conditions in each county jail
2-48 within their jurisdiction, including all information necessary to
2-49 determine compliance with state law, commission orders, and the
2-50 rules adopted under this chapter;

2-51 (9) review the reports submitted under Subdivision (8)
2-52 and require commission employees to inspect county jails regularly
2-53 to ensure compliance with state law, commission orders, and rules
2-54 and procedures adopted under this chapter;

2-55 (10) adopt a classification system to assist sheriffs
2-56 and judges in determining which defendants are low-risk and
2-57 consequently suitable participants in a county jail work release
2-58 program under Article 42.034, Code of Criminal Procedure;

2-59 (11) adopt rules relating to requirements for
2-60 segregation of classes of inmates and to capacities for county
2-61 jails;

2-62 (12) require that the chief jailer of each municipal
2-63 lockup submit to the commission, on a form prescribed by the
2-64 commission, an annual report of persons under 17 years of age
2-65 securely detained in the lockup, including all information
2-66 necessary to determine compliance with state law concerning secure
2-67 confinement of children in municipal lockups;

2-68 (13) at least annually determine whether each county
2-69 jail is in compliance with the rules and procedures adopted under

3-1 this chapter;

3-2 (14) require that the sheriff and commissioners court

3-3 of each county submit to the commission, on a form prescribed by the

3-4 commission, an annual report of persons under 17 years of age

3-5 securely detained in the county jail, including all information

3-6 necessary to determine compliance with state law concerning secure

3-7 confinement of children in county jails;

3-8 (15) schedule announced and unannounced inspections

3-9 of jails under the commission's jurisdiction using the risk

3-10 assessment plan established under Section 511.0085 to guide the

3-11 inspections process;

3-12 (16) adopt a policy for gathering and distributing to

3-13 jails under the commission's jurisdiction information regarding:

3-14 (A) common issues concerning jail

3-15 administration;

3-16 (B) examples of successful strategies for

3-17 maintaining compliance with state law and the rules, standards, and

3-18 procedures of the commission; and

3-19 (C) solutions to operational challenges for

3-20 jails;

3-21 (17) report to the Texas Correctional Office on

3-22 Offenders with Medical or Mental Impairments on a jail's compliance

3-23 with Article 16.22, Code of Criminal Procedure;

3-24 (18) adopt reasonable rules and procedures

3-25 establishing minimum requirements for jails to:

3-26 (A) determine if a prisoner is pregnant; and

3-27 (B) ensure that the jail's health services plan

3-28 addresses medical and mental health care, including nutritional

3-29 requirements, and any special housing or work assignment needs for

3-30 persons who are confined in the jail and are known or determined to

3-31 be pregnant; ~~and~~

3-32 (19) provide guidelines to sheriffs regarding

3-33 contracts between a sheriff and another entity for the provision of

3-34 food services to or the operation of a commissary in a jail under

3-35 the commission's jurisdiction, including specific provisions

3-36 regarding conflicts of interest and avoiding the appearance of

3-37 impropriety; and

3-38 (20) adopt reasonable rules and procedures regarding

3-39 visitation of a prisoner at a county jail by a guardian, as defined

3-40 by Section 1002.012, Estates Code, that:

3-41 (A) allow visitation by a guardian to the same

3-42 extent as the prisoner's next of kin, including placing the

3-43 guardian on the prisoner's approved visitors list on the guardian's

3-44 request and providing the guardian access to the prisoner during a

3-45 facility's standard visitation hours if the prisoner is otherwise

3-46 eligible to receive visitors; and

3-47 (B) require the guardian to provide the sheriff

3-48 with letters of guardianship issued as provided by Section

3-49 1106.001, Estates Code, before being allowed to visit the prisoner.

3-50 SECTION 5. Not later than December 1, 2015:

3-51 (1) the Texas Department of Criminal Justice shall

3-52 revise visitation policies consistent with Sections 501.010 and

3-53 507.030, Government Code, as amended by this Act; and

3-54 (2) the Commission on Jail Standards shall establish

3-55 rules and procedures as required by Section 511.009(a)(20),

3-56 Government Code, as added by this Act.

3-57 SECTION 6. Article 26.041, Code of Criminal Procedure, as

3-58 added by this Act, applies to a defendant for whom indigency is at

3-59 issue, regardless of whether the defendant is arrested before, on,

3-60 or after the effective date of this Act.

3-61 SECTION 7. This Act takes effect September 1, 2015.

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